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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/403,329	10/26/2000	Paul Mueller	33900-56PUS	7124

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ART UNIT	PAPER NUMBER
1732	19

DATE MAILED: 09/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/403,329	MUELLER ET AL.	
	Examiner Geoffrey P. Shipsides	Art Unit 1732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 30 June 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 15-19 and 21-29 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 15-19, 21 and 22 is/are allowed.
- 6) Claim(s) 23-29 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.
 

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

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**DETAILED ACTION*****Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 23 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,614,146 (Nakamura et al.).

With regard to claim 23, Nakamura et al. teaches an apparatus for injecting molding a receptacle fitted with a covering label (title). Nakamura teaches a mold having a male portion and a female portion for molding the receptacle (Figures 1, 6, and 8), and a movable pneumatic transfer means capable of depositing a label in the mold before molding the receptacle (Figures 3 and 4). The male portion of Nakamura et al. is capable of receiving a covering rolled label having at least two edges sealed together and attaching said label to the receptacle (Figures 2 and 8). It is noted that although Nakamura et al. does not teach that the male member receives a covering label having at least two edges pre-sealed together, it is the examiner's position that it is capable of receiving such a label. It is also the examiner's position that the pneumatic transfer means is capable of pneumatically gripping such a label in a folded flat configuration by contacting the outside face of such a label. The examiner bases this position on Figure 3 of Nakamura et al. showing the gripping of a non-sealed label in such a manner. It is the examiner's position that the pneumatic gripping means of Nakamura et al. is *capable* of pneumatically gripping a doubled up sealed label folded in a flat configuration. It is also the examiner's position that the pneumatic transfer means is also capable of reshaping such a label into a rolled unflattened configuration and depositing it onto the male portion of the mold in the same way that it shows the reshaping of a non-sealed label into an unflattened configuration (Figure 4).

***Claim Rejections - 35 USC § 102/103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 24 and 25 are rejected under 35 U.S.C. 102(b) as anticipated by U.S. Patent No. 5,614,146 (Nakamura et al.) or, in the alternative, under 35 U.S.C. 103(a) as obvious over U.S. Patent No. 5,614,146 (Nakamura et al.) in view of U.S. Patent No. 3,602,496 (Langenohl), U.S. Patent No. 6,159,568 (Freedman et al.), U.S. Patent No. 4,986,866 (Ohba et al.), and U.S. Patent No. 4,992,038 (Furuse et al.).

The discussion of Nakamura et al. above applies herein.

With regard to claim 24, Nakamura et al. teaches the use of a label supplying means that uses a known label feeder (Column 3, lines 39-45). It is the examiner's position that this constitutes a magazine. It is further the examiner's position that a magazine would inherently store labels in a flat stack. It is the examiner's further position that the intended use of a magazine is of no patentable consequence and that a magazine (or label feeder) would be able to feed folded flat labels shaped in a folded configuration. It is also noted that the method limitation of lines 6-9 of claim 24 also do not further limit claim 24 as the intended use of an apparatus is of no patentable consequence. It is further the examiner's position that the apparatus of Nakamura et al. is *capable* of performing the method steps listed in claim 24.

Even if the label supply means as taught by Nakamura et al. does not constitute a magazine, it is well known in the art to supply labels in stacks in magazines, and to extract the label from the magazine in order to supply the label to a mold. Langenohl, Freedman et al., Ohba et al., and Furuse et al. are cited merely to demonstrate that it is known in the art to supply labels in stacks in magazines. It would have been obvious to one having ordinary skill in the art at the time of invention to modify the apparatus of Nakamura et al. by using a magazine as the feeding means as is well known in the art to facilitate the process of feeding labels to the gripping means. Nakamura et al. teaches a process of un-flattening a label using an element (figure 4). The pseudo core as taught by Nakamura et al. constitutes an element for expanding the flattened label that contacts an outside face of the label (Figure 4).

With regard to claim 25, the pneumatic transfer element as taught by Nakamura et al. (figures 3 and 4, ref. No. 11) also constitutes a blowing means (Column 4, lines 45-59) in the un-flattening (or expanding) of the label.

It would have been *prima facie* obvious at the time of invention to utilize the magazines as taught by Langenohl, Freedman et al, Ohba et al, and/or Furuse et al. as the label supply means as taught by Nakamura et al. in order to provide a means of supplying labels.

*Claim Rejections - 35 USC § 103*

5. Claims 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,614,146 (Nakamura et al.) in view of U.S. Patent No. 3,602,496 (Langenohl), U.S. Patent No. 6,159,568 (Freedman et al.), U.S. Patent No. 4,986,866 (Ohba et al.), and U.S. Patent No. 4,992,038 (Furuse et al.) as applied to claims 24 and 25 above, and further in view of U.S. Patent No. 4,479,771 (Slat et al.).

With regard to claims 26 and 27, Nakamura et al. does not specifically teach that the movable pneumatic transfer support element comprises a plurality of elements each for gripping a label or a multi-cavity mold. Slat et al., however, teaches a multi-cavity mold and a transfer element that grips a plurality of labels. It would have been obvious to one having ordinary skill in the art at the time of invention to modify the apparatus of Nakamura et al. to include multiple transfer elements (each for gripping a label) on a single transfer element and a multi cavity mold as taught by Slat et al. in order to provide for an apparatus for simultaneously producing labeled containers in order to increase the productivity of the apparatus. It is noted that the type of labels transported (expanded or not) in an intended use type limitation and has no patentable merit.

It would have been *prima facie* obvious at the time of invention to modify the apparatus of Nakamura et al. to include multiple elements and multiple molding cavities as taught by Slat et al. in order to provide a means to mold multiple labeled containers in a single molding operation.

6. Claims 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,614,146 (Nakamura et al.) in view of U.S. Patent No. 3,602,496 (Langenohl), U.S. Patent No. 6,159,568 (Freedman et al.), U.S. Patent No. 4,986,866 (Ohba et al.), U.S. Patent No. 4,992,038 (Furuse et al.) and U.S. Patent No. 4,479,771 (Slat et al.) as applied to claims 26 and 27 above, and further in view of U.S. Patent No. 4,725,327 (Matuda et al.).

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With regard to claim 28, Nakamura et al. does not specifically teach the use of robot to move the movable pneumatic transfer support element, but Nakamura et al. does teach that it is swingable around a reference point (Column 3, line 46). Matuda et al. teaches the use of robots to move around apparatus parts and labels (title). It would have been obvious to one having ordinary skill in the art at the time of invention to use a robot as taught by Matuda et al. to move the movable pneumatic transfer support element of Nakamura et al. in order to accurately and precisely place the label in the desired position each and every time. Further, it is also well known to use robotic arms with various axes of rotation and/or translation and it would have been obvious to provide a robotic arm on the movable transfer support element of Nakamura et al. that sufficient axes of rotation and translation that allows for the labels to be properly placed in the mold.

With regard to claim 29, it is further the examiner's position that the mold itself is a means for engaging the expanded label in part of the mold core and is also a means for thrusting the label onto the mold core (as the mold closes).

It would have been *prima facie* obvious at the time of invention to modify the apparatus of Nakamura et al. to include multiple elements and multiple molding cavities as taught by Slate et al. and the use of robotics to help move around the apparatus and the labels as taught by Matuda et al. in order to provide a means to mold multiple labeled containers in a single molding operation.

*Response to Arguments*

7. Applicant's arguments with respect to claims 15-29 have been considered but are moot in view of the new ground(s) of rejection.

*Allowable Subject Matter*

8. Claims 15-19, 21, and 22 are allowed.

*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Geoffrey P. Shipsides whose telephone number is 703-306-0311. The examiner can normally be reached on Monday - Friday 9 AM till 5 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaianni can be reached on 703-305-5493. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

*GPS*  
Geoffrey P. Shipsides/gps

*Michael Colaianni*  
**MICHAEL COLAIANNI**  
**PRIMARY EXAMINER**